

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

BRANNON L. MACKINS,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

No. 1:20-CV-108-SNLJ

MEMORANDUM AND ORDER

This matter is before the Court on a letter, dated May 19, 2020, filed by movant Brannon L. Mackins. (ECF No. 1). The Court construes the letter as a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255. The letter appears to seek relief under the Supreme Court's case in *Rehaif v. United States*, 139 U.S. 2191 (2019). For the reasons outlined below, movant will be provided time to amend his motion to vacate.

Instructions on Amending Motion to Vacate

Movant's motion to vacate has not been drafted in a manner that complies with the Federal Rules. Additionally, the motion is defective because movant did not use the Court's form. *See* Local Rule 2.06(A). Because petitioner is self-represented, the Court will provide him with the opportunity to submit an amended motion on a court provided form to properly set forth his grounds for relief.

Movant will be required to file an amended motion to vacate, on a court-form, containing all of the allegations he wishes to bring against the government. Simply put, **all** claims in this action must be included in one, centralized motion. Movant's claims must be stated in a succinct manner and any accompanying arguments should be accompanied by specific grounds for relief.

The Federal Rules require clarity in pleadings, including pleadings from self-represented parties. Rule 2(c) of the Rules Governing Habeas Corpus Cases requires that a petition “(1) specify all the grounds for relief available to the petitioner; (2) state the facts supporting each ground; (3) state the relief requested; [and] (4) be printed, typewritten, or legibly handwritten[.]” Rule 2(d) requires that the petition be drafted on the standard form or to substantially follow the form.

Rule 8(a) of the Federal Rules of Civil Procedure requires pleadings in the federal courts to contain a short and plain statement of the claim showing that the pleader is entitled to relief. Rule 8 is applicable to habeas actions pursuant to Rule 12 of the Rules Governing § 2254 and 2255 Cases.

Movant is warned that the filing of the amended motion to vacate completely replaces the original and any supplemental motions or memoranda and claims that are not re-alleged are deemed abandoned. Movant’s failure to file an amended motion to vacate within thirty (30) days will result in a dismissal of this action, without prejudice.


Accordingly,

IT IS HEREBY ORDERED that the Clerk shall mail to movant a form for filing a motion to vacate pursuant to 28 U.S.C. § 2255.

IT IS FURTHER ORDERED that movant shall utilize the form and submit an amended motion to vacate that complies with this Memorandum and Order within thirty (30) days of the date of this Memorandum and Order.

IT IS FURTHER ORDERED that movant's failure to amend his motion to vacate in accordance with the instructions set forth in this Memorandum and Order will result in a dismissal of this action without prejudice.

Dated this 21st day of August, 2020.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE